

From: Brent Johnson
To: Heather Mackenzie-Campbell
Date: 2/12/07 1:59PM
Subject: Re: Assessing Warrant Enhancement when Failure to Appear UCA 77-7-22 is charged

Yes a court can do both. Its an issue of judicial discretion (on the bail increase) and prosecutorial discretion (on the separate charge). The rule can't take away discretion in either area, so can either do both.

>>> Heather Mackenzie-Campbell 02/12/07 01:53PM >>>
Brent,

Can a court assess both a warrant enhancement \$75 and the charge for UCA 77-7-22 in justice courts \$124.50 (\$92.50 plus \$32 security surcharge)? The rule says warrant enhancement or Failure to Appear offense (see below). I have seen both added and want to make sure that the guidance I sent out was correct or not.

Thank you,
Heather

CJA 4-701

Statement of the Rule:

(1) When a case is filed, the clerk may mail to the defendant a courtesy bail notice indicating the amount of bail. If the defendant fails to appear within fourteen days after receiving a citation for an alleged infraction or misdemeanor offense, the clerk may mail the defendant a delinquent notice increasing the bail amount for the initial offense by \$50.

(2) If the defendant fails to appear or pay the bail amount within forty days of the date the citation was issued:

(2)(A) On an infraction or misdemeanor charge, the clerk may prepare an information or refer the case to the prosecutor's office, which may elect to prepare and file an information for Failure to Appear, a Class B misdemeanor. The court may then issue a warrant on the Failure to Appear only, but not on the underlying offense; or

(2)(B) On a misdemeanor charge, the court may issue a warrant for failure to appear pursuant to Utah Code Section 77-7-19(3) and may increase the outstanding bail amount by \$75; a separate offense of Failure to Appear need not be filed.